



27 JUN 2002

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In re Application of	:	
Mittendorf et al.	:	
Application No.: 09/806335	:	DECISION
PCT No.: PCT/JP99/05319	:	
Int. Filing Date: 29 September 1999	:	UNDER
Priority Date: 01 October 1998	:	
Attorney Docket No.: LEA 33 308	:	37 CFR 1.182
For: New Bis-Benzimidazoles	:	

This is a decision on applicants' "Response To Notification Of A Defective Response" filed on 25 July 2001, which is being treated under 37 CFR 1.182.

### **BACKGROUND**

This international application was filed on 29 September 1999 and claimed an earliest priority date of 01 October 1998. The International Bureau transmitted a copy of the published international application to the USPTO on 13 April 2000. A Demand electing the United States was filed on 18 January 2000, which was prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 01 April 2001.

On 29 March 2001, applicants filed *inter alia* the basic national fee.

On 01 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring *inter alia* the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

On 04 June 2001, applicants filed a declaration which named an inventor (Makiko Marumo) who was not named in the published international application, and which did not name an inventor (Makiko Hiroaka) who was named in the published international application.

On 21 June 2001, a Notification Of A Defective Response (Form PCT/DO/EO/916) and a Notification Of A Defective Oath Or Declaration (Form PCT/DO/EO/917) were mailed to applicants, indicating that the declaration filed on 04 June 2001 was defective in that it did not name Makiko Hiroaka.

Applicants filed the instant response on 25 July 2001.

### **DISCUSSION**

Review of the record, including applicants' arguments, reveals that the declaration filed

on 04 June 2001 named an inventor (Makiko Marumo) who was not named in the published international application, and did not name an inventor (Makiko Hiroaka) who was named in the published international application. Specifically, the declaration originally enumerated Mikiko Hiroaka but her name was crossed out and replaced by that of Makiko Marumo. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition under 37 CFR 1.182 is required to resolve this matter. Such a petition ~~must be accompanied by the \$130.00 petition fee and by verified statements by the inventor~~ setting forth in detail the procedure whereby the change in name was effected. Applicants are advised that, to support the argument that Ms. Hiroaka's name has been changed due to marriage, it will be necessary to provide a document attesting to such fact (along with an English translation if the document is not in English) and signed by Ms. Marumo. See MPEP 605.04(c).

### CONCLUSION

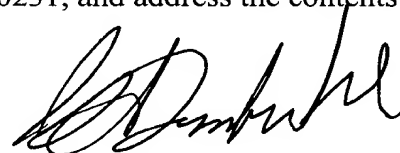
The request is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Petition Under 37 CFR 1.182" and be accompanied by the required petition fee and an acceptable explanation of the facts as discussed above. Failure to timely file a proper response will result in ABANDONMENT of the application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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